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EXAMINER

BENGZON, GREG C

ART UNIT	PAPER NUMBER
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2444

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08/06/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed 07/20/2010 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) *[in italics]*:

With regard to the interpretation of quality being comparable to rendering options, applicant respectfully disagrees. Applicant submits that content of different qualities may have different rendering requirements but the quality, as recited in the claims, is related to a bandwidth requirement and not rendering requirements (of the device). For example, for a Blu-ray Disc player there are certain minimum rendering requirements, and there may be two entries in the quality menu with exactly the same rendering requirements e.g. two streams with the same video resolution and same frame rate using the same compression system (e.g. MPEG-2) but with much different bit rates (bandwidth) due to the choice of compression parameters. From a rendering point of view these two streams are identical but from a quality point of view they are different. Hence, it is believed that the interpretation of quality provided in the Office Action is incorrect.

The Examiner respectfully disagrees with the Applicant.

The Examiner respectfully requests further clarification of these remarks. The Applicant remarks appear to imply that the 'quality' attribute, as recited in the claims, is independent of the rendering requirements and capabilities of the rendering device. Stated another from another perspective, the Applicant remarks appear to imply that the

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quality attribute, as recited in the claims, is either 1) the quality of the recording/stored content or 2) the speed of the download and thus is not referring to the quality of the rendering on the device. Following this line of logic the quality of the recording/stored content and/or the speed of the download as a function of the bandwidth would have no impact on the quality of the rendering on the device and no impact on the viewing experience for the user.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein the *quality is related to a bandwidth requirement and not rendering requirements (of the device)*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Pak Paragraph 45 Figure 2 disclosed *two streams with the same video resolution and same frame rate using the same compression system (e.g. MPEG-2) but with much different bit rates (bandwidth) due to the choice of compression parameters.*

The Applicant presents the following argument(s) [*in italics*]:

...Thus, the subject matter claimed in the quality menu is independent of the rendering capabilities of the device and quality menus include entries that refer to the bandwidth limitations of the network.

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *quality menu is independent of the rendering capabilities of the device and quality menus include entries that refer to the bandwidth limitations of the network*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant presents the following argument(s) [*in italics*]:

...even if there were a monitoring function of the bandwidth, the quality of the content available for downloading cannot be adjusted based on the monitored bandwidth.

The Examiner respectfully disagrees with the Applicant.

Silen Paragraph 27 thru Paragraph 29 disclosed a *downloading process that is adjusted based on the monitored bandwidth limitations of the network*. Silen Paragraph 12 disclosed automatically selecting from a plurality of available data streams dynamically during a presentation according to the currently available bandwidth.

The combination of Pak-Silen disclosed a *quality menu that is independent of the rendering capabilities of the device and wherein the quality menus include entries that refer to the bandwidth limitations of the network.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/G. B./

Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444